

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

IN RE:

**ADAM COLLINS FORREST,
TRACEY MEADOWS FORREST,
DEBTORS.**

**CASE NO: 16-30275
CHAPTER 13**

**DEBTORS' MOTION TO VACATE
ORDER GRANTING DEBTORS' MOTION TO APPROVE SALE OF REAL ESTATE
(PRINCIPAL RESIDENCE)**

Now come the Debtors, Adam C. Forrest and Tracey M. Forrest, by counsel, and move this Court for an order vacating the Order Granting Debtors' Motion to Approve Sale of Real Estate (Principal Residence) [Doc 190] entered in this case on July 22, 2019.

In support of this Motion, the Debtors assert the following:

1. The bankruptcy case of the Debtors is pending under Chapter 13. Their case was confirmed on July 28, 2017.
2. The Order Granting Debtors' Motion to Approve Sale of Real Estate (Principal Residence) [Doc 190] (herein the "Order") was entered on July 22, 2019.
3. The Debtors motioned this Court for approval of the Property sale because Mr. Forrest had to relocate to northern Ohio for his job and therefore, the Debtors needed to sell their Property in Proctorville, Ohio.
4. The Debtors had received an offer to purchase the Property through a property investment/management company. The total agreed upon sales price for the Debtors' principal residence was \$184,936.58 and the Buyer had agreed to pay all normal closing costs.
5. At the time the Order was entered, the Debtors' had been led to believe that the Buyers had obtained financing and that a closing date for the sale was imminent.
6. The Debtors' Property was empty because the Debtors' entire family had moved to their rented home in northern Ohio early in the summer of 2019. Because the property was empty, the Debtors allowed the Buyers to move into the Property and pay monthly rent equal to their two monthly mortgage payments pending the closing of the sale.
7. To date, this situation remains. The Buyer continues to pay monthly rent and lives in the Property. However, after months of delays and issues with the Buyer's obtaining financing, the Debtors' are no longer under the belief that these delays are temporary,

and while the sale of the Property to the Buyer may ultimately occur, no reliable timeline for the sale exists.

8. The property is encumbered by a first mortgage lien in favor of U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust Company (currently serviced by Caliber Home Loans, Inc.), with an approximate balance of \$134,936.58.
9. The property is encumbered by a second mortgage lien in favor of Wells Fargo Bank, N.A., as trustee for Irwin Whole Loan Home Equity Trustee 2004-A as servicer with delegated authority for the Trustee (currently serviced by Ditech Financial, LLC.), with an approximate balance of \$45,000.
10. The Order Granting Debtors' Motion to Approve Sale of Real Estate (Principal Residence) authorized the Trustee to cease all payments to both the first and second mortgage lien Claims upon entry of the Order.
11. Because payments to the mortgage lenders have ceased, the Debtors are concerned that it will not be possible to complete their confirmed plan if additional months pass without the Property sale.
12. Consequently, the Debtors request that this Court vacate the Order, which will allow for the continued payment of the first and second mortgage lien claims by the Trustee and prevent any further damage to their confirmed plan. The Debtors further understand they may also need to seek modification of their confirmed plan to achieve feasibility.

WHEREFORE, the Debtors pray that this Court will vacate its Order Granting Debtors' Motion to Approve Sale of Real Estate (Principal Residence) [Doc 190] entered July 22, 2019.

/s/ Megan A. Patrick

Megan A. Patrick (WVSB #12592)

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on this 30th day of June 2020 a true copy of the foregoing “*Debtors’ Motion to Vacate Order Granting Debtors’ Motion to Approve Sale of Real Estate (Principal Residence)*” was filed with the Clerk of Court via the CM/ECF System and that the Chapter 13 Trustee and interested parties were served by electronic notification through the CM/ECF System.

/s/Megan A. Patrick
Megan A. Patrick (WVSB #12592)